

To facilitate prosecution, the Applicants elect, with traverse, claims 1-68, 99-111, 115-123, and 128-141 as being drawn to Group I, a method for protecting a MEMS structure during a dicing of a MEMS wafer to produce individual MEMS dies.

In formulating the restriction requirement, the Examiner alleges that the combination claims of Group II do not require the particulars of the subcombination claims for patentability and that the subcombination claims has separate utility. More specifically, the Examiner alleges that the subcombination claims do not require packaging of separate dies. This position by the examiner is unfounded.

An examination of independent claim 35, which the Examiner alleges has a combination relationship to independent claim 1, fails to reveals any language requiring the packaging of separate dies. Therefore, under the Examiner's reasoning, these claims fail to a combination/subcombination relationship. Moreover, independent claim 35 has been amended to recite a method for protecting a MEMS structure during a dicing of a MEMS wafer to produce individual MEMS dies, and thus, as now amended, claims 1 and 35 fail to have a combination/subcombination relationship. Therefore, the Examiner has failed to provide a *prima facie* case that the claims of Group I and Group II have a combination/subcombination relationship.

Accordingly, as set forth above, in view of the Examiner's failure to properly formulate a restriction requirement and to expedite the prosecution of the present application, the Applicants elect, with traverse, claims 1-68, 99-111, 115-123, and 128-141 as being drawn to Group I, a method for protecting a MEMS structure during a dicing of a MEMS wafer to produce individual MEMS dies.

The Examiner has further subjected the claims to an election of species requirement wherein the Examiner alleges that the claims set forth six distinct letter groups of species wherein each species has a delineated set of numbered subspecies. For example, the Examiner alleges that the claims set forth a species Group A directed to a cap material wherein the delineated numbered subspecies are glass or silicon; ceramic; metal; or polymer. It is apparent from the Examiner's proposal that the examiner has merely taken the subject matter of each dependent claim and declared that the subject matter is classified as a separate species. The

Examiner fails to provide any rationale for dividing all the claims up into alleged species groups and subspecies delineation.

However, to further the prosecution of the present application, the Applicants elect, with traverse, the species as defined by A1, B1, C1, D2, E1, and F2. In view of an inadvertent inclusion of non-elected claims in the previous recitation of elected claims, it is respectfully submitted that claims 1-8, 12, 14-19, 22, 23, 25, 27-30, 34-45, 50-53, 56, 57, 59, 61-64, 68, 99, 102-104, 106-108, 110, 111, 115-121, 123, 128-130, and 134-141 read upon the species, elected with traverse, as defined by A1, B1, C1, D2, E1, and F2 with: claims 1, 35, and 115 being generic to all species; claims 7, 43, and 44 being generic to the Group B species; and claims 22 and 56 being generic to Group E species.

The Applicants respectfully request that if the Examiner finds an inadvertent error in the future communications, which can be easily resolved over the telephone like the present situation, the Examiner would contact the undersigned by telephone so that the issue can be resolved expeditiously.

In view of the above discussion, the Applicants, elect, with traverse, claims 1-8, 12, 14-19, 22, 23, 25, 27-30, 34-45, 50-53, 56, 57, 59, 61-64, 68, 99, 102-104, 106-108, 110, 111, 115-121, 123, 128-130, and 134-141, which read upon the species as defined by A1, B1, C1, D2, E1, and F2.

Accordingly, in view of all the reasons set forth above, the Examiner is respectfully requested to reconsider and withdraw this restriction requirement and the election of species requirement. Also, an early indication of allowability is earnestly solicited.

Respectfully submitted,


Matthew E. Connors

Registration No. 33,298
Samuels, Gauthier & Stevens
225 Franklin Street, Suite 3300
Boston, Massachusetts 02110
Telephone: (617) 426-9180
Extension 112

MEC/MJN/mjn